



FRONTIERS OF FREEDOM INSTITUTE

12011 LEE JACKSON MEM. HWY. • 3rd FLOOR • FAIRFAX, VIRGINIA 22033
Phone (703) 246-0110 • (888) 8-RIGHTS • Fax (703) 246-0129 • www.ff.org

U.S. Senator Malcolm Wallop (ret.)
Chairman

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To whom it may concern:

There is real and credible evidence that the Congress and our representative democracy are under attack -- not from anthrax or some other terrorist plot. This is a different kind of enemy -- one that is aimed at destroying our cherished democratic institutions. This plot is not carried out by terrorists or bombs, but by greedy and power hungry lawyers who seek to essentially overthrow our representative democracy and the rule of law and install in their place a system governance by litigation -- with lawyers and unelected judges as our rulers.

Under their plan, litigation is used to effectively enact legislation, promulgate regulations, and impose new taxes. This has been the trend since the tobacco litigation. Now we see the same *modus operandi* in the Microsoft litigation. The nine states and the District of Columbia who insist that the Justice Department's settlement with Microsoft isn't tough enough, continue to base all of their expectations and all of their arguments on the trial judge's rulings, which were resoundingly overturned on appeal.

The fact is the settlement is like virtually every other settlement. Each party got something it wanted and each party had to give-in to things that it did not want. So why do they continue to claim they cannot support the settlement? Why do they continue to misstate the law and the facts? Why do they continue to pretend to be protecting consumers? Its all about money. Justice has nothing to do with it.

Americans are already taxed to the hilt so new taxes are not popular. Thus when politicians go on pork spending sprees, they are often afraid to raise taxes any higher to pay for their excesses. Therefore, free spending states often opt for an alternative revenue source -- shaking down deep-pocketed industries or companies through litigation. Hence, taxation through litigation.

Taxation through litigation is a favorite way for states to cover large budget deficits. It is no coincidence that the states that persist in suing Microsoft all have large projected budget deficits -- totaling more than \$11 billion. Despite the fact that the vast majority of states either settled their claims along with the federal government or opted not to get involved in the first place, a few states spend taxpayer money pursuing continued litigation in hopes that Microsoft, like the tobacco industry, will become their next cash cow. Its all about money!

We are slowly surrendering our constitutional representative democracy to a cancerous system of lawyer-run governance. Our forefathers pledged their lives, fortunes, and sacred honor to obtain freedom and throw off the shackles and unjust burdens of an unelected, life-tenured king. Did General Washington and his army make those sacrifices merely to have trial lawyers and unelected, life tenured judges take the king's place, sack the rule of law, and turn our representative democracy into governance by litigation? I think not.

Sincerely,

George C. Landrith, President, Frontiers of Freedom Institute